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**OFFICE OF PETITIONS**

In re Application of  
Chisholm et al.  
Application No. 09/691,649  
Filed: October 17, 2000  
Confirmation No.; 3572

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: DECISION REQUESTING PTA  
: CORRECTION PETITION  
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This decision is in response to applicants' "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT" filed on February 10, 2005 requesting that the Office review the determination of PTA at the time of the mailing of the notice of allowance. Applicants suggest that the proper amount of PTA is 543 days at the time of the mailing of the notice of allowance.

Applicants' request for PTA correction is **Granted**. The Office will adjust the PAIR calculation to reflect a determination of 543 days at the time of the mailing of the notice of allowance.

Applicants have submitted a request for the USPTO determine the value of the PTA at the time of the mailing of the notice of allowance. Applicants agree with the 630 days of additional PTA for the failure to initially act upon the application within 14 months of the filing date of the application under 37 CFR 1.702(a)(1). Applicants also agree with the 59 days of reduction against Patent term adjustment for the submission of a response under 37 CFR 1.704(b). Applicants further assert that the Office should have assessed an additional twenty-eight (28) days for the submission of a response to the final rejection on September 3, 2004.

Applicants arguments are persuasive. The file history reflects that the Office mailed a final rejection on May 3, 2004 that was responded to on September 3, 2004 by the submission of an RCE pursuant to 37 CFR 1.114. Accordingly, applicants should have been assessed a twenty-eight day reduction pursuant to 37 CFR 1.704(b).<sup>1</sup> Accordingly, the overall PTA determination at the time of the mailing of the notice of allowance is five hundred and forty-three days (543) ( $630 - (28 + 59) = 543$ ).

The Office thanks applicants for bringing this error to the attention of the Office. In addition, the Office thanks applicants for their good faith and candor. Accordingly, the Office will not assess any fees associated with bringing this matter to the attention of the matter.

The Office notes that any delays in issuing the patent more than 4 months after the payment of the issue fee and other requirements being satisfied will be added at the time of the issuing of the patent and will be reflected in the issue notification letter that is mailed to applicants

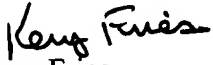
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<sup>1</sup>Reduction should have begin on August , 7 2004 and ended on September 3, 2004, a twenty-eight day reduction.

approximately three weeks prior to the issue date.

After the mailing of this decision, the Office will forward this application to the Office of Patent Publications for a prompt issuance of the patent.

Any questions concerning this decision should be directed to Kery Fries, Senior Legal Advisor, at 571-272-7757.

  
Kery Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy

cc: Adjusted Pair Calculation